3. In § 222.53, revise paragraphs (a) and (c)(3)(ii) to read as follows:

§ 222.53 Grazing fees in the East—non-competitive procedures.

(a) *Scope.* Except as provided in § 222.54, on National Forest System lands in the Eastern States, the fee charged for livestock grazing shall be determined through non-competitive, fair market value procedures.

* * * * *

(c) * * *

(3) * * *

(ii) *Grazing Fee Credits for Range Improvements.* Any requirements for permittee construction or development of range improvements shall be identified through an agreement and incorporated into the grazing permit, with credit for such improvements to be applied toward the annual grazing fee. Fee credits shall be allowed only for range improvements which the Forest Service requires an individual permittee, through the terms and conditions of the grazing permit, to construct or develop on a specific allotment to meet the management direction and prescriptions in the relevant forest land and resource management plan. Improvements eligible for fee credits involve only costs which the permittee would not ordinarily incur under the grazing permit, are of tangible public benefit, and enhance management of vegetation for resource protection, soil productivity, riparian, watershed, and wetland values, wildlife and fishery habitat, or outdoor recreation values. The cost of maintaining range improvements specified in the terms and conditions of the grazing permit and other costs incurred by the permittee in the ordinary course of permitted livestock grazing, do not qualify for grazing fee credits.

* * * * *

4. In § 222.54, revise paragraphs (a)(1), (c)(3), and (g)(2) to read as follows:

§ 222.54 Grazing fees in the East—competitive bidding.

(a) * * *

(1) *Applicability.* The rules of this section apply to grazing fees for any allotment established or vacated on, or after, February 26, 1990, on National Forest System lands in the Eastern States as well as to grazing fees for existing allotments of such lands that have already been established under competitive procedures as of [the effective date of the final rule]. The rules of this section do not apply to temporary grazing permits or permits with on-and-off grazing provisions as authorized in subpart A of this part.

* * * * *

(c) * * *

(3) Copies of the applicable grazing permit, terms and conditions, and the latest annual operating instructions shall be made available to all prospective bidders upon request.

* * * * *

(g) * * *

(2) *Grazing Fee Credits for Range Improvements.* Any requirements for permittee construction or development of range improvements shall be identified through an agreement and incorporated into the grazing permit, with credits for such improvements to be allowed toward the annual grazing fee. Fee credits shall be allowed only for range improvements which the Forest Service requires an individual permittee to construct or develop on a specific allotment to meet the management direction and prescriptions in the relevant forest land and resource management plan through the terms and conditions of the grazing permit. These improvements must involve costs which the permittee would not ordinarily incur under the grazing permit, must be of tangible public benefit, and must enhance management of vegetation for resource protection, soil productivity, riparian, watershed, and wetland values, wildlife and fishery habit, or outdoor recreation values. Maintenance of range improvements specified in the terms and conditions of the grazing permit, and other costs incurred by the permittee in the ordinary course of permitted livestock grazing, do not qualify for grazing fee credits.

* * * * *

Dated: April 20, 1994.

James R. Lyons,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 94–10082 Filed 4–26–94; 8:45 am]

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federal register

Thursday
April 28, 1994

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 25

Design Standards for Airplane Jacking and Tie-Down Provision; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 26129; Amdt. No. 25–81]

RIN 2120–AD38

Design Standards for Airplane Jacking and Tie-Down Provisions

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the airworthiness standards for transport category airplanes adds a new design standard for airplane jacking and tie-down provisions. This amendment is needed to provide manufacturers with design standards for jacking conditions and is intended to protect primary airplane structure during jacking operations and from gusty wind conditions while tied down.

EFFECTIVE DATE: May 31, 1994.

FOR FURTHER INFORMATION CONTACT: Iven Connally, FAA, Airframe and Propulsion Branch (ANM–112), Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, WA 98055–4056; telephone (206) 227–2120.

SUPPLEMENTARY INFORMATION:

Background

This amendment is based on Notice of Proposed Rulemaking (NPRM) 90–3, which was published in the **Federal Register** on February 9, 1990 (55 FR 4790). The notice was predicated on a need to protect primary airplane structure from damage during jacking operations and during gusty wind conditions.

Airplane jacking is achieved by either lifting on the airframe or on the landing gear. In some instances, the airplane has either slipped off the jacks or been blown off during gusty wind conditions. Also, some transport category airplanes have tie-down provisions to restrain the airplane during high wind conditions. Damage to primary structure could result if the tie-down provisions were not designed to withstand likely wind gusts.

Most manufacturers of transport category airplanes provide information and instructions concerning jacking operations in addition to providing appropriate jacking points on the airplane. However, currently there is no requirement in the airworthiness standards for transport category airplane designs to account for jacking or tie-down loads. In the absence of specific standards, some manufacturers have used jacking and tie-down criteria contained in military specifications to design the airframe and landing gear of commercial transport category airplanes. Others, primarily the manufacturers of smaller transport category airplanes, have requested design criteria for jacking and tie-down loads.

While the FAA is not aware of any existing airplanes that are inadequately designed with respect to jacking and tie-down provisions, it is conceivable that an airplane with inadequately designed jacking and tie-down provisions may be certificated in the absence of specific regulatory requirements. Structural damage at the jacking or tie-down points could pose an immediate hazard while the airplane is on the ground. Even if an airplane does not fall off the jacks, there is the possibility that damage to primary structure could occur from the static loads applied at inadequately designed jacking points. In addition, there is a danger that the damage could remain undetected and lead to a catastrophic structural failure during a subsequent flight. Undetected damage from inadequately designed tie-down provisions poses a similar hazard.

These concerns resulted in Notice 90–3 in which the FAA proposed to require transport category airplanes to have suitable provisions for jacking. In essence, standards consistent with current industry practice were proposed to provide protection of primary airplane structure from loads imposed during probable jacking conditions. As there is no requirement for tie-down provisions, the FAA also proposed to adopt standards to provide protection of primary airplane structure in the event such provisions are provided. This standard is also consistent with current industry practice.

Interested persons have been given an opportunity to participate in this rulemaking and due consideration has been given to all matters presented. Comments received in response to Notice 90–3 are discussed below.

Discussion of Comments

The proposed standards are based on established military and commercial airplane standards and on current industry practice and therefore received general support from all commenters.

The European Joint Aviation Authorities (JAA) suggest the requirements of JAR 25.519 (Joint Airworthiness Requirements) be adopted as § 25.519 of the Federal Aviation Regulations (FAR), offering as justification the favorable service history associated with the JAR.

The JAR standards differ from the proposals in Notice 90–3 in that the load factors used in establishing the vertical and horizontal jacking forces are slightly less. The wind force used to establish the tie-down loads is also slightly less. Although the JAR standard is less conservative than the proposed FAR standard, there is sufficient satisfactory service experience based on the requirements of JAR 25.519 to justify its adoption as the basis for the FAR standard. Additionally, some clarifying changes from the current JAR standard are made in order to define clearly the structures to which the jacking load factors apply. The word "surrounding" is changed to "local" to differentiate between local structure and the entire airplane structure. Also, since the maximum design weight, in this case, is the maximum ramp weight, the rule is revised to avoid any confusion over the weight to use in analyzing the support structure. These minor changes in the final rule will more fully harmonize the FAR and JAR requirements. The JAA also suggests that the introduction of jacking requirements in § 25.513 of the FAR, which corresponds with requirements in JAR 25.519, could cause confusion. The FAA agrees, and for consistency with the JAR, the jacking requirement has been moved from proposed § 25.513 of the FAR to § 25.519.

One commenter recommends that consideration be given to incorporating a design requirement to improve the airplane's ability to maintain contact with the jack head. The FAA has determined that the high side load requirements for the jack fittings achieves this objective and should provide ample protection against an airplane slipping off the jacks.

One commenter recommends the development of standards requiring the use of jacks when working on aircraft with known landing gear problems. The commenter cites an instance in which an airplane that had made a gear up landing was parked with the gear down in an unrepaired condition. Two pilots, while inspecting the airplane for damage, were crushed when the gear collapsed. The FAA considers the concern expressed by the commenter to relate to maintenance or salvage procedures. Since such procedures are not the subject of certification requirements, they are beyond the scope of the notice.

One operator suggests that the regulation include a requirement for the manufacturer to provide specific jacking requirements in the Structural Repair Manual and the Maintenance Manual, and that these requirements include

specific loads at each jack pad for various empty weights and center of gravity locations. The manufacturers generally do provide jacking instructions, including jack pad load limits, in the maintenance and structural repair manuals which are approved as part of the overall maintenance program. While the FAA does not consider it necessary to mandate where the manufacturer places this information, the final rule has been revised to require that load limit information must be provided.

Regulatory Evaluation

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits.

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this rule: (1) Will generate benefits that justify its costs and is not a "significant regulatory action" as defined in the Executive Order, (2) is not significant as defined in Department of Transportation Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not constitute a barrier to international trade. These analyses, available in the docket, are summarized below.

Benefits

The FAA is unaware of any existing airplanes that are inadequately designed with respect to jacking or tie-down provisions. In the absence of specific regulatory standards, it is possible that an airplane with inadequate design standards for jacking and tie-down could be certificated. Structural damage at the jacking or tie-down points of an inadequately designed airplane could pose a hazard while the airplane is on the ground. More importantly, structural damage at jacking or tie-down points could remain undetected and lead to catastrophic structural failure during a subsequent flight. Transport category airplanes particularly larger airplanes, seldom need to be tied down for protection from high winds. Nevertheless, reliance on inadequately designed tie-down provisions could also damage primary structure.

The FAA is unable to document specific instances where the standards of this rule would have prevented damage to the primary structure of transport category airplanes, primarily because it is assumed that existing airplanes are properly designed with respect to jacking and tie-down provisions. However, the FAA considers that the potential risk of jacking and tie-down accidents will be reduced for future airplane designs that might otherwise be built in the absence of the consistent standards of this amendment. Significant but unquantified benefits could result from reducing the risk of such incidents.

Costs

Essentially all manufacturers of transport category airplanes currently provide appropriate jacking points and jacking instructions for their airplanes. In the absence of regulatory standards for jacking and tie-down provisions on transport category airplanes, some manufacturers have used the jacking and tie-down criteria of military specifications for designing the airframes and landing gears of commercial transport category airplanes. Others, primarily the manufacturers of smaller transport category airplanes, have requested design criteria for jacking and tie-down loads.

The FAA is not aware of any manufacturers who have not used either military specifications or other comparable criteria for designing the airframe and landing gear. Since all large airplanes must be jacked periodically, reasonable and prudent manufacturers have had little choice but to follow this course. Because this rule adopts standards that are consistent with both current and expected industry practice, it is not expected to result in any significant compliance costs.

Comparison of Costs and Benefits

The FAA is unaware of any existing airplanes that are inadequately designed with respect to jacking or tie-down provisions. Since this rule adopts the standards that industry has largely followed, and would most likely continue to follow, in the absence of this rule, no significant costs or benefits are expected.

In the absence of specific regulatory standards, it is possible that an inadequately designed airplane could be certificated. In such a case, the benefits of reducing the potential risk of jacking and tie-down accidents would significantly exceed any incremental costs of compliance. As such, the FAA considers this rule to be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires government agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. This rule will directly affect transport category airplane manufacturers that certify their airplanes under part 25. The size standard for manufacturers of airplanes is 75 employees of fewer. Since no transport category airplane manufacturer meets the standard, this rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

This rule is not expected to have an adverse impact either on the trade opportunities of U.S. manufacturers of transport category airplanes doing business abroad or on foreign airplane manufacturers doing business in the United States. Since the certification rules are applicable to both foreign and domestic manufacturers selling airplanes in the United States, there will be no competitive trade advantage to either.

Federalism Implications

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

Because the regulation adopted herein is not expected to result in significant costs, the FAA has determined that this final rule is not a significant regulatory action as defined in Executive Order 12866. For the same reason and because this is an issue that has not prompted a great deal of public concern, this final rule is not considered to be significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). In addition, since there are no small entities affected by this rulemaking, it is certified, under the criteria of the Regulatory Flexibility Act, that this final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. A copy of the regulatory evaluation prepared for this final rule may be examined in the public docket or obtained from the person identified under the caption, **FOR FURTHER INFORMATION CONTACT.**

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Federal Aviation Administration, Reporting and recordkeeping requirements.

Adoption of the Amendment

Accordingly, 14 CFR part 25 of the Federal Aviation Regulations (FAR) is amended as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. app. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g); and 49 CFR 1.47(a).

2. A new § 25.519 is added under the undesignated center heading "Ground Loads" to read as follows:

§ 25.519 Jacking and tie-down provisions.

(a) General. The airplane must be designed to withstand the limit load conditions resulting from the static ground load conditions of paragraph (b) of this section and, if applicable, paragraph (c) of this section at the most critical combinations of airplane weight and center of gravity. The maximum allowable load at each jack pad must be specified.

(b) Jacking. The airplane must have provisions for jacking and must withstand the following limit loads when the airplane is supported on jacks—

(1) For jacking by the landing gear at the maximum ramp weight of the airplane, the airplane structure must be designed for a vertical load of 1.33 times the vertical static reaction at each jacking point acting singly and in combination with a horizontal load of 0.33 times the vertical static reaction applied in any direction

(2) For jacking by other airplane structure at maximum approved jacking weight:

(i) The airplane structure must be designed for a vertical load of 1.33 times the vertical reaction at each jacking point acting singly and in combination with a horizontal load of 0.33 times the vertical static reaction applied in any direction.

(ii) The jacking pads and local structure must be designed for a vertical load of 2.0 times the vertical static reaction at each jacking point, acting singly and in combination with a horizontal load of 0.33 times the vertical static reaction applied in any direction.

(c) Tie-down. If tie-down points are provided, the main tie-down points and local structure must withstand the limit loads resulting from a 65-knot horizontal wind from any direction.

Issued in Washington, DC, on April 13, 1994.

David R. Hinson,

Administrator.

[FR Doc. 94–10168 Filed 4–26–94; 8:45 am]

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federal register

Thursday
April 28, 1994

Part VIII

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 226

Leasing of Osage Reservation Lands for Oil and Gas Mining; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 226

RIN 1076–AC09

Leasing of Osage Reservation Lands for Oil and Gas Mining

April 8, 1994.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) amends the regulations contained in the Code of Federal Regulations to eliminate premium, bonus, or other like payments from consideration in the calculation of the royalty price for crude oil in Osage County, Oklahoma.

EFFECTIVE DATE: May 31, 1994.

FOR FURTHER INFORMATION CONTACT: Gordon Jackson, Superintendent, Osage Agency, Bureau of Indian Affairs, Pawhuska, Oklahoma 74056, telephone (918) 287–1032.

SUPPLEMENTARY INFORMATION: The purpose of this final rule is to amend 25 CFR 226.11(a)(2) to eliminate premium, bonus, or other like payments from consideration in the calculation of the royalty price for crude oil in Osage County.

Prior to amendment the regulations were the subject of administrative appeals by numerous oil producers over the meaning of: "and settlement shall be based on the highest of the bona fide selling price, posted or offered price by a major purchaser (as defined in Sec. 226.1(h) of this Part) in Osage County, who purchases production from Osage oil leases." The Bureau of Indian Affairs has interpreted that language to mean that when a higher price is offered and paid for crude oil in Osage County, that price shall be used for royalty computation for all oil of the same quality sold in the county. However, there is reason to believe that this interpretation has discouraged purchasers from offering bonus prices.

The Interior Board of Indian Appeals (IBIA) issued its decision in favor of the producers on February 5, 1993, in *Okie Crude Co., et al.* v. *Muskogee Area Director, Bureau of Indian Affairs*, IBIA 92–18–A, et al. The IBIA concluded that the then existent regulations required a producer to pay royalty on the highest price available to that producer, whether or not that producer actually received that price. Prices not available to a producer would not be used to calculate royalties due from that producer. This final rule eliminates the language that caused the differences in interpretation that led to the appeals to the IBIA.

This rule was published as a proposed rule on November 5, 1993 (58 FR 59142). The last day for public comment was January 4, 1994. No comments were received.

It is the consensus of the BIA and the Osage Tribal Council that this amendment to 25 CFR 226.11(a)(2) will create a positive economic benefit in the form of increased royalty income to the Osage headright holders. This rule change removes the existing disincentive to purchasers to remain in Osage County resulting from bonus payments paid to some producers but not all. The producers in Osage County will now have incentive to receive bonus payments, which will increase mineral activity in the Osage mineral estate.

The Department of the Interior has determined that this rule is not a significant regulatory action under Executive Order 12866, and therefore will not be reviewed by the Office of Management and Budget. In addition, the Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.). The amendment may cause small producers to pool their oil production in an effort to secure bonus or premium pay. However, under the amended rule they will not be penalized for premium pay to other lessee/producers.

In accordance with the Executive Order 12630, the Department has determined that this rule does not have significant takings implications.

In accordance with Executive Order No. 12612, the Department has determined that this rule does not have significant federalism effects.

The Department has certified to the Office of Management and Budget that these final regulations meet the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

The Department of the Interior has determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to the National Environmental Policy Act of 1969.

The information collections contained in 25 CFR Part 226 are required by the Secretary , Department of the Interior, and are necessary to comply with the requirements of Office of Management and Budget (OMB) Circular No. A–102. The Standard Form 424 and attachments prescribed by such circular are approved by OMB under 44 U.S.C. 3501, et seq. (1982) and assigned approval number 0348–0006. These sections describe the types of information that would satisfy the requirements of Circular A–102. The information will be utilized in leasing of Osage lands for oil and gas mining. Response is mandatory.

William Haney, Field Solicitor, was the primary author of this document. For further information contact Gordon Jackson, Superintendent, Osage Agency, at (918) 287–1032.

List of Subjects in 25 CFR Part 226

Indian-lands, Mineral resources, Mines, Oil and gas exploration.

Words of Issuance:

For the reasons set out in the preamble, part 226 of chapter I, title 25 of the Code of Federal regulations is amended as set forth below.

PART 226—LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

1. The authority citation for 25 CFR Part 226 continues to read as follows:

Authority: Sec. 3, 34 Stat. 543; secs. 1, 2, 45 Stat. 1478; sec. 3, 52 Stat. 1034, 1035; sec. 2(a), 92 Stat. 1660.

2. Section 226.11(a)(2) is revised to read as follows:

§ 226.11 Royalty payments.

(a) * * * * *

(2) Unless the Osage Tribal Council, with approval of the Secretary, shall elect to take the royalty in kind, payment is owing at the time of sale or removal of the oil, except where payments are made on division orders, and settlement shall be based on the actual selling price, but at not less than the highest posted price by a major purchaser (as defined in § 226.1(h)) in Osage County, Oklahoma, who purchases production from Osage oil leases.

* * * * *

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 94–10120 Filed 4–26–94; 8:45 am]

BILLING CODE 4310–02–P